

**ARKANSAS PROFESSIONAL BAIL BOND COMPANY AND PROFESSIONAL  
BAIL BONDSMAN LICENSING BOARD**

**October 8, 2004**

Chairman Don Smith called the meeting to order at 9:00 a.m.

Roll call was taken. The following members were present: Don Smith, Frank Sturgeon, Eugene Reynolds, Phyllis Carruth, Rex Morris, and Marc Oudin. Also present were Assistant Attorney General, Kevin Coker, Executive Director, Tommy Reed, Board staff and members of the audience.

Following a review of the Board Minutes for September 10, 2004, Sturgeon moved to approve. Oudin seconded. The motion carried.

**OLD BUSINESS**

**License Approvals:**

Two (2) non-controversial license applications and eight (8) non-controversial tentative license applications were submitted for Board approval. Oudin moved to approve the license applications as presented, pending receipt of necessary documentation. Sturgeon seconded. Chairman Smith asked for comments or discussion. Hearing none, the motion was put to a vote. The motion carried.

**Controversial License/Arturo Calvillo**

Mr. Calvillo was presented as controversial due to misdemeanor convictions for criminal mischief and 2<sup>nd</sup> degree assault in 1994 and 1996, respectively. His record also indicated 5 counts of endangerment of a minor and 1 count of reckless driving. Mr. Calvillo was present and responded to inquiries from the Board. He provided documentation of the disposition of the criminal mischief and assault charges but did not have documentation of the disposition of the endangerment and reckless driving charges. Carruth moved to delay consideration of the application pending receipt of documentation regarding the endangerment charges. The motion failed for lack of a second. Sturgeon moved to approve the application pending receipt of documentation indicating the endangerment charges had been dismissed. Oudin seconded. Chairman Smith called for discussion. Hearing none, the Chairman put the motion to a vote. There was one opposed and five in favor. The motion carried.

**Controversial License/Andrea Michelle Joiner**

Ms. Joiner was presented as controversial due to a misdemeanor conviction of hindering apprehension. Ms. Joiner was present and addressed questions from the Board. The Board noted that the sheriff and prosecuting attorney had not asserted opposition to Ms. Joiner and that the chief of police where she had been charged had written a letter of recommendation. Sturgeon moved to approve and Oudin seconded. The Chairman called for discussion. There was none and the motion was put to a vote. The motion carried with one opposed.

**Transfers:**

The list of transferring agents was provided for the Board's information. Chairman Smith invited comments or discussion. There being none, the Board proceeded.

**Forfeitures:**

The Forfeiture Report was presented and the Board's approval to suspend those licensees who failed to pay forfeitures timely between October 8, 2004 and November 12, 2004 was requested.

Sturgeon moved to suspend those licensees whose forfeitures were not timely paid between October 8, 2004 and November 12, 2004. Carruth seconded. Chairman Smith invited comments or discussion; there were none and the motion was put to a vote. The motion carried.

**Past Due Forfeitures:**

The Past Due Forfeiture Report was presented. Reed advised that the statute authorizing Board action on past due forfeitures required a certified copy of the judgment and “proof of service of process” but was silent as to what “process” must be proven to have been served. He stated his opinion that the statute required proof of service of the judgment (rather than the show cause order) and explained his reasoning. He stated he had met with some resistance from clerks and that was why he was making the Board aware of this. There was considerable discussion of the issue.

**Bud Dennis Bonding Co., Inc.:**

The Board was provided an accounting of forfeitures paid by the Board and a copy of a letter from the Bankruptcy Trustee advising that any funds not disbursed and that would otherwise be released to the owners, Gary and Colleen Morris, should be transmitted to the Chapter 7 Trustee rather than the Morris’.

**Jack’s Bail Bonding, Inc.:**

The Board was provided an accounting of forfeitures paid by the Board and copies of correspondence from the company announcing its intent to cease business, and from the Board seeking payment of the security deposit.

**Will Oliver/Liz Frawley Bail Bonds, Inc.:**

The Board was provided an accounting of forfeitures paid by the Board.

**Forfeitures Paid from Security Deposits - Year-To-Date:**

The Board was provided an accounting of all forfeitures paid by the Board from security deposits.

**Transfer Procedure & Policy:**

The Board was provided a copy of the letter from the Executive Director submitted to the Attorney General seeking an opinion regarding what, if any, process was due upon the occasion of a transfer request. Asst. Atty Gen., Kevin Coker presented research regarding the issue. Tom Nickolich provided board members with a copy of the transfer procedure he advocated. There was considerable discussion of the issue.

**NEW BUSINESS**

**September Vouchers Paid:**

Chairman Smith invited questions and/or discussion regarding the vouchers paid in September. There being none, the Board proceeded.

**Informal Hearings:**

Reed advised he held three informal hearings on September 21, 2004 and had drafted decisions but had not sent them pending the Board’s direction regarding the appropriate period of appeal. Reed recommended a two-week appeal period. He advised there was some question as to the proper form/procedure to be followed and explained that Asst. Atty Gen., Kevin Coker, had provided a “consent agreement” form which would require Board approval, but that Reed advocated a policy/procedure whereby the Executive Director would make, and enter, Findings of Fact and Conclusions of Law, and send the decision to the Respondents, advising them of their

right of appeal and the date by which an appeal for a full hearing before the Board must be made. Reed advised that the issue was whether the Board had properly delegated the authority to the Executive Director to make such determinations and fix sanctions. There was discussion of the issue. Reed was instructed to put the three matters heard informally on hold pending resolution of the issue.

**Re: Valuation of Signatures as collateral:**

Reed provided a memo outlining problems brought to his attention and concerns he had regarding abuses and potential for abuse, including false signatures, use of social security numbers that do not match the individuals listed, and bonds secured by up to 80 signatures. Chairman Smith indicated courts in his jurisdiction valued signatures as being worth \$2,500 and that was how the Board came to adopt that value. Sturgeon agreed. Oudin noted that these abuses are secondary to the valuation issue and can occur in any bond, whether secured by signatures or otherwise. After discussion it was determined the policy would remain as is.

**Statement of Financial Interest:**

Copies of the statement were provided to Board members for filing by January 1 of the coming year as required by law.

**Reappointment of Phyllis Carruth:**

Chairman Smith congratulated Ms. Carruth on her reappointment and presented her with a plaque commemorating her service to the Board. Ms. Carruth thanked the Board for the recognition and indicated her pleasure at being reappointed and serving on the Board.

**Hearings: In the Matter of Will Oliver/Liz Frawley Bail Bonds, Inc., APBBLB #04-012**

Reed explained the circumstances leading to a continuance in the matter. A discussion of possible dates to hear the matter was had. Reed was instructed to set the matter to be heard before the close of the year.

**Re: Conduct of Board meetings and Public participation in such:**

An item of new business was raised by Oudin, who commented it was his opinion it was inappropriate for members of the public audience to congregate and stand in the entrance during Board meetings and, that it was inappropriate for audience members to interject themselves into Board proceedings prior to the Public Comment period. Chairman Smith agreed and stated that the Board should conclude its business before public comment. Oudin moved that audience members be required to be seated during board meetings and withhold comments until the Board had concluded its business and the meeting was opened for public comment. Sturgeon seconded. No vote was taken and the motion expired.

**Public Comments:**

Tom Nickolich had three comments: (1) That the Chair had recognized him prior to his comments during the meeting; and (2) That if the Board was going to make policy changes everybody should be involved so that "they get the right policy; not just being made by the Executive Director or anybody else. We have input in it."; and (3) That informal hearings should not be held because of the "secret" nature of such proceedings and that in the past 11 years nothing done by the Board had been done in secret.

Kevin Coker, Asst. Atty Gen., advised that informal hearings were common in regulatory agencies and were a useful tool to facilitate conduct of business.

Nickolich asked whether the public would be given notice of, or welcome in, informal hearings. Reed responded he had no particular problem with the public being present if the parties agreed, but that, unless instructed by the Board, no notice would be given. He noted that, while Board meetings/hearings are open to the public, the public is not a party to a complaint. Asst. Atty Gen. Coker noted that a meeting between the Director and others (except Board members) was not action by the Board subject to the requirement of public notice. Reed pointed out that any decision made in an informal hearing would be disclosed to the Board (and, therefore, the public) after a period of appeal had passed.

Carruth noted that after the Board meeting at which Reed was hired, suggestions of utilization of an informal hearing process were made and that that was the first time she had heard of any such procedure. She noted she strongly objected to it then and continues to have strong opposition to any informal hearing process, stating that "when we have cases, they need to come before this board. We don't need to have someone deciding whether they need to come before this board." She said she had told Chairman Smith that what was being done was wrong.

Chairman Smith asked if there were any further public comments. Wanda Cox announced her daughter's recent graduation from law school and that she had recently passed the bar exam and been admitted to practice. There being no further public comments, the Board recessed.

Submitted for approval:

This 12th day of November, 2004 \_\_\_\_\_  
Don Smith, Chairman